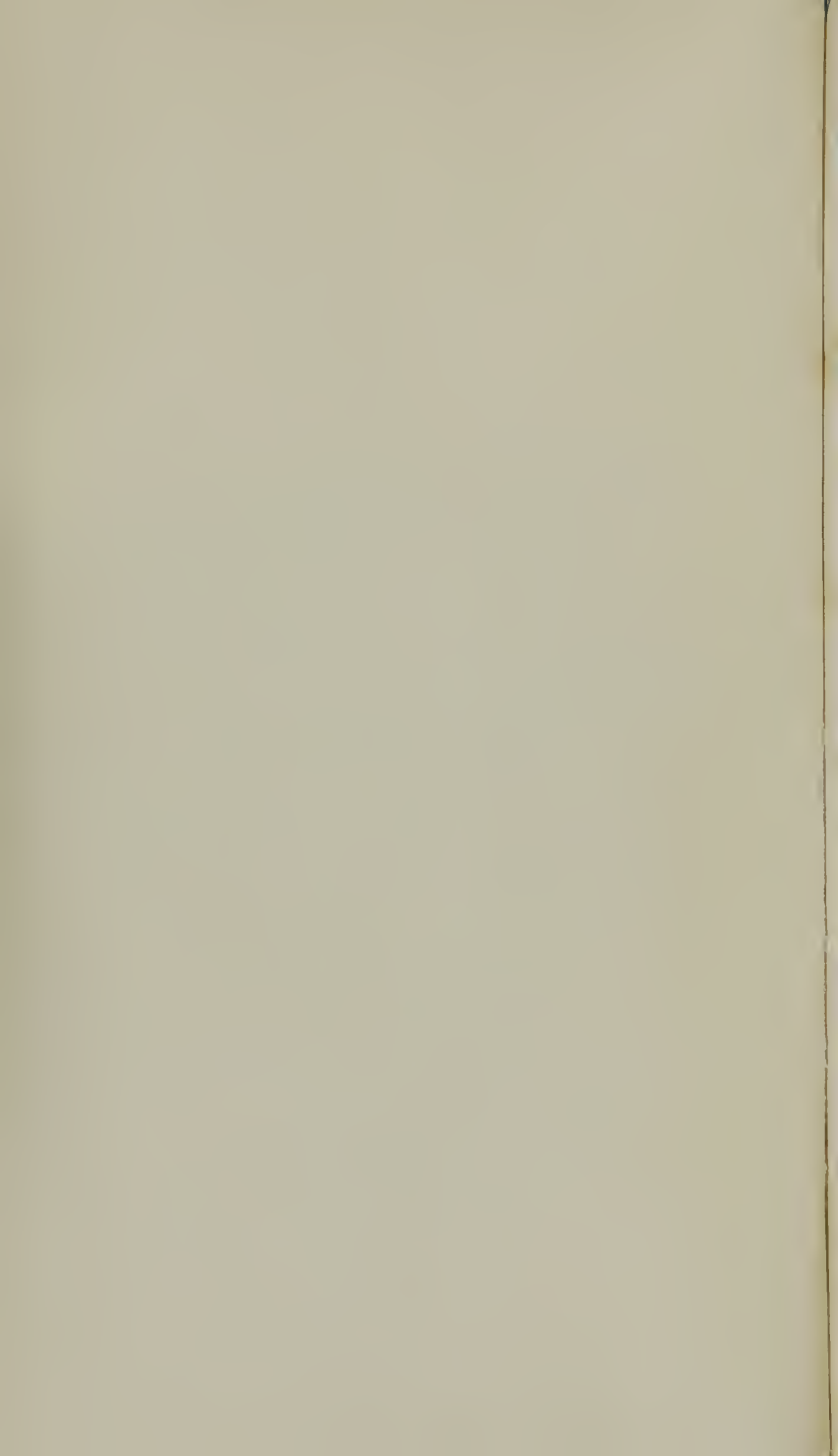


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A
VINDICATION
OF THE
SEPARATE SYSTEM
OF
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PRISON DISCIPLINE
FROM THE
MISREPRESENTATIONS
OF THE
NORTH AMERICAN REVIEW,
JULY, 1839.

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A VINDICATION.

THE long-pending controversy respecting the comparative merits of the Auburn (or silent) and the Pennsylvania (or separate) systems of prison discipline, is reduced by the July number of the North American Review to very narrow limits; and, as the writer is evidently the friend and advocate of the former, we may suppose that the claim which he asserts in its behalf is presented in the most favourable aspect, and with all the advantages of the latest and fullest experience.

He gives us, in the first place, a schedule of the points on which the friends of either system agree:

“That the great object of any penitentiary discipline should be the reformation of the prisoner.

“That in labouring for his reformation, we should appeal to his self-interest and to his conscience.

“That we should endeavour to give him such habits as will remove him as far as possible from temptation, and enable him most successfully to resist it when it shall happen to overtake it.

“That the treatment of the prisoner should be kind, but strict.

“That being placed in solitude for a sufficient portion of the time, and at all times precluded from social intercourse with those who would corrupt him, conscience may be left to exert its full power over the mind of the criminal.

“That he should be instructed in his duty to God and man by a competent religious teacher.

“That he should be taught some mechanical trade by which he may always be enabled honestly to support himself. And,

“Finally, That he should be dismissed under such circumstances as will be most likely to encourage and sustain him in a course of well-doing.”*

It being assumed that we are all “heartily united” on these grand points of the theory of prison discipline, the reviewer proceeds to examine the two different plans upon which we have fallen “for carrying into effect the same object,” and they are thus described:

Under the Pennsylvania (or separate) system “every prisoner is lodged in a separate cell of comfortable size, and he remains in it, both night and day, during the whole period of his confinement. He is furnished with work at any trade with which he is acquainted, and if he is acquainted with none he is immediately instructed. He is well supplied with food, clothing and bedding, his cell is kept comfortably warm, and he is always furnished with a Bible. In addition to this, it is intended that the warden or a religious teacher shall frequently converse with him on his duties to God and man, but that no other person, except an inspector, shall ever see him, or hold intercourse with him. He sees no other prisoner and is seen by none. He is not to know even the occupant of the next cell; and thus, though he were confined with five hundred at the same time, there would be no more danger of his being misled by them during his imprisonment, or afterwards, than if they had never been within the prison wall together.”†

Under the Auburn (or silent,) system, on the other hand, “the prisoners are all provided with separate cells in which they sleep and take their meals. They are not allowed to speak or to communicate by signs with each other, although they work together during the day under the care of their keepers. They meet in the chapel in the morning and evening for the daily reading of the Scriptures and for devotion, and

* Rev. p. 29. † Rev. p. 30.

spend the Sabbath day either in solitude, in Sabbath schools, in Bible classes, or in the usual services of religious worship. In other words, this system enforces solitude at night and joint labour by day, yet labour in silence and without communication, and also allows the convicts to meet together for the purposes of religious instruction.”*

From these passages of the Review, we learn that the essential difference between the two systems is, that the one insists upon *total*, the other upon only *partial* solitude; in the one case, the prisoners are alone in the cell *night and day*; in the other, they are there only *for the night*.

“The friends of the Pennsylvania system assert, that it is possible to construct prisons in such a manner as to insulate men perfectly, and that prisons constructed as they shall recommend will so insulate them. This being taken for granted, they assert, that from this total insulation several important benefits follow, which are unattainable under any other system; among which are the following:

“1. By effectually preventing contamination within the prison it enables the convict to return to society without having formed any new associates in crime.

“2. By giving the monitions of conscience and the advice of friends their full effect, it presents the best opportunity of reclaiming the criminal.

“3. As it never requires the infliction of severe punishment it is the more merciful.

“4. It executes itself, and therefore its success does not so much depend upon the character of the persons who may be chosen to administer it.”†

To all this the friends of the Auburn system reply briefly as follows:

“1. That the insulation which the Pennsylvania system asserts to be necessary for the production of the above effects, is not attainable, or at any rate has never yet been attained.

"2. That whether attainable or not, this system, *in its practical results*, in every point of view in which it may be examined, is inferior to the Auburn system; and

"3. That even were its advantages superior, its expensiveness is so great that there is no ground for hope that it will be universally adopted; and they offer to decide the controversy by the facts in the case, and here issue is joined."*

The first question then, is, whether the separate system does in fact insulate the prisoner?

Secondly, whether, if this insulation is attained, it would give this system any advantages over the other? and,

Thirdly, whether the expensiveness of it would not make it unprofitable, whatever its advantages might be?

1. Our first inquiry then, is, DOES THE SEPARATE SYSTEM INSULATE THE PRISONER?

It is always well to understand the precise import of terms used in controversy. *To insulate*, when applied to persons, means to place in a detached situation, or in a state to have no communication with surrounding objects; when applied to things, it means to stand alone, or not contiguous to other bodies. These definitions, though quite imperfect, are sufficiently accurate to answer our purpose. Hence we should say of a man that he is insulated if he is alone upon the fragment of a wreck in the midst of the ocean; and of the aeronaut, that he is insulated when he is several thousand feet above the earth; and of a school boy, that he is insulated if he is locked up alone in the cellar or wood-closet of the school-house as a punishment for idleness or disobedience. In these cases the insulation is perfect in kind, though different in degree. Suppose a ship should pass so near to the man on the wreck that he can hear the voices of the crew, and they can see his signal of distress, while it is impracticable to change their course for his rescue, this incident would not make him the less insulated. The aeronaut may see and be seen by myriads of gaping boys

and still be insulated, and it would not be less true of the delinquent in the cellar or wood-closet, that he is insulated, because he can hear the hum of the school-room or the shouts of the play-ground.

Insulation, then, in the familiar use of the term is such a separation from others as prevents communication. This is the insulation contemplated by the Pennsylvania or separate system of prison discipline. Is it attainable? The Reviewer is sure that it has not yet been attained, and he thinks it is not attainable; we think that it is not only attainable, but that it has been, to all practical intents and purposes, attained already, and this is the point now under examination.

The first item of evidence introduced by the Reviewer to show that this insulation has not yet been attained, respects the Western Penitentiary at Pittsburg, (Pa.) It is an extract from the report of a committee of the House of Representatives of that State in 1837, stating "that the defects of the construction of the prison are so great as to admit of almost unlimited communication between the cells."* If we had been examined on the subject, we could have testified that there was not even a separation of the convicts; for on a visit to that same Penitentiary a few months before the committee, we saw one cell occupied by three men and another by two; but we were told that this was occasioned by a want of suitable accommodations, and that this want was occasioned by a failure of the annual appropriation.

In January, 1838, however, just a twelvemonth after the report was made, showing the defects of the institution, a report was presented in the Senate of Pennsylvania by a select committee appointed to visit the Western Penitentiary, from which we take the following paragraph: "SCARCELY ANY POSSIBLE MEANS OF EVEN THE MOST INDIRECT COMMUNICATION NOW EXISTS. The labour is strictly solitary, and through the vigilance of the warden and keepers, even the casual conversation

formerly held through the pipes (necessarily emptied daily) is nearly cut off, as they are suffered to remain empty the shortest possible length of time. Without proper vigilance in that respect, it would be very easy for the prisoners to hold daily communication with each other.”*

Now if the Reviewer had been disposed to do common justice to the subject in hand, would he have given the report of 1837 and suppressed that of 1838?

Perhaps he would say, however, that the report of 1838 does not change the aspect of the case materially, for, after all, the insulation of the prisoner is made to depend on the vigilance of the officers. And suppose the deputy in charge of one of the corridors of the Eastern Penitentiary should leave all the cell-doors open as he passes along to supply the prisoners with work or food, would this prove that the insulation of prisoners is not attained at that prison? Who needs to be told that if the officers are not vigilant, not only will the prisoners communicate with each other, but they will soon find a way of communicating with their fellow citizens generally. The insulation of the convict is not less perfect because the vigilance of the officers is indispensable to its continuance.

We find, then, from the report of a legislative committee, that, at a certain time, the construction and discipline of the Western Penitentiary were such as to allow almost unlimited communication between the cells, and this fact is used by the Reviewer to show that insulation has not yet been attained at that prison. A year after we find from the report of another legislative committee that the scene is entirely changed, and that “even the most indirect communication is scarcely possible,” if there is proper vigilance on the part of the officers. We may therefore consider this item of evidence as out of the case, it being proved that whatever was the state of that prison

* Rep. p. 3.—It may be well to state in this connexion that all communication of this kind which was then *impracticable*, is now rendered *impossible* by a very simple mechanical contrivance.

in 1837, the insulation of the prisoner was complete in 1838; and for aught that appears, is complete now, provided there is no negligence on the part of the officers on duty.

We are next favoured with a piece of evidence which was spread before the public with considerable parade in the Twelfth Annual Report of the Prison Discipline Society at Boston. It is derived from *Mr. Harvey Newcomb*, who is described as an officer of the Western Penitentiary from April, 1833, to August, 1835. If we have not been misinformed, Mr. Newcomb was clerk or secretary to the commissioners who were appointed to superintend the building of the prison. Instead of being an officer of the prison, therefore, he was an officer of the officers that had nothing to do with the prison but to build it. So far as his situation in the prison entitles his testimony to consideration, we presume he would not himself attach much importance to it; nor do we, let him be where he would. No one will pretend for a moment that the principle of separate confinement was applied to the convicts in the Western Penitentiary at the time Mr. Newcomb was there; this has been clearly shown already, so that if the testimony proves any thing, it proves what every body admits, that the Western Penitentiary is not so constructed *as to prevent the transmission of sound*. He states it as his own opinion, that "it is a physical impossibility so to construct a range of cells as to answer the purpose of constant confinement, with suitable apparatus for ventilation, heating and cleanliness, without affording facilities for conversation between the prisoners."*

As good men as Mr. Harvey Newcomb once thought it "physically impossible" to propel vessels by steam, or to warm a room with anthracite coal, but some people now think it would be physically impossible to do without them.

Mr. Newcomb's testimony closes with the solemn annunciation of the principle that "there can be no ventilation without air, and where air will pass sound will pass." Hence if there

* Rev. p. 32.

is no sound there is no air; and hence it follows, of necessity, that unless the Pennsylvania discipline despatches its subjects by confining them in exhausted receivers, it certainly affords facilities for communication.

We freely admit the soundness of Mr. Newcomb's philosophy. Air being the principal medium (or vehicle) of sound, can carry it wherever it can go itself; and it is obvious, that a hollow cylinder, (like a water pipe,) by confining the air to a straight and narrow passage, gives to sound a direct course, and thus facilitates communication; and, on the other hand, Mr. Newcomb would probably admit, that this same hollow cylinder may be so constructed, and so placed and so used, that to employ it, *without detection*, as a medium of communication between adjoining cells, where convicts are pursuing their daily labour, would be very difficult indeed, if not impracticable, *under a competent police*.*

It is clear, then, we think, from both these items of evidence, that nothing is wanting to secure the perfect insulation of prisoners at Pittsburg but vigilant officers. The discipline, as such, is all it professes to be, if properly administered.

As to the Eastern Penitentiary at Philadelphia, the Reviewer attempts to prove that it labours under the like difficulties and defects as he alleges of Pittsburg, by an extract from the report of a MINORITY of a committee of the Pennsylvania legislature, made in the year 1835, in which it is stated, "that by means of an important defect in the construction of the sewer or privy pipes, the convicts were enabled to communicate with each other, and the facilities of communication afforded by this defect were so great that a general insurrection had been concerted by the convicts *which would have broken out*, if the warden's vigilance had not detected, and his energy and decision frustrated it."†

Perhaps the Reviewer is justified in relying on this minority

* We have before stated that what was then considered impracticable, is now rendered impossible by a simple mechanical contrivance connected with these pipes.

† Rev. p. 33.

report for evidence. It shows, however, that he knows nothing of the construction of the prison, otherwise he would perceive at once, that no concert, established by this means, could embrace more than one corridor; hence the idea of a *general* insurrection is absurd in the very nature of the case; and we feel bound to add, that the whole story of a projected insurrection of any kind, is a creation of fancy, the resemblance to which has never been seen in or about the Eastern Penitentiary. So that the warden receives credit for frustrating a scheme of which he never had the least knowledge.

But suppose the fact to have been as it is stated in the extract from the report; as it stands in the review, the impression left on the mind of the reader (and, as we must presume, designed to be left) is, that the attention of the committee was called to this particular subject, or at least, that it was among the prominent objects of their commission. But what are the facts?

Certain disaffected individuals complained to the Executive of the Commonwealth of sundry specific abuses in the economy and management of the Eastern Penitentiary. The governor called the attention of the legislature to the subject, and a joint committee of ten (five from each branch) was appointed to investigate them.

In their report they speak of the institution as "commanding the admiration of the whole civilized world."* They speak of the system of solitary confinement with labour, as having "immortalized the jurisprudence of Pennsylvania—placing her far above every other community in the scale of humanity and wisdom."† Indeed the whole tenor of the document, so far as it touches the subject at all, goes to establish not only the general fact of the practicability of the convict's perfect insulation, but of the competency of that prison to effect it, and the necessity of a strict adherence to that principle. We have room but for a brief extract.

"In conclusion, the committee cannot refrain from expressing

their high admiration for the institution, and the economy and management which have been the subject of their examination; nor can they avoid the cordial belief, that it is calculated, in an eminent degree, and beyond every other institution of the kind, to attain the great objects of penitentiary punishment—the prevention of crimes and the reformation of offenders.”*

This Report was concurred in by every member of the committee on the part of the senate, and by four of the committee on the part of the house. The remaining member of the latter committee, (Mr. M'Elwee,) differing from his associates upon the general subject of the economy and management of the prison, (not the *principle* of discipline,) presented his views in a separate document, in the course of which he expresses his unqualified approbation of the system, and particularly of the characteristic principle of separate or solitary confinement. “The convicts, restrained from intercourse with their fellow criminals,” he says, “become impressed with the consciousness of the destructive tendency of their former lives, and when their term of expiation expires, a well grounded hope is entertained that they will become useful members of society. The hopes and wishes of the enlightened projectors of this philanthropic system are fully realized by its beneficial results.”* When adverting to the necessity of a strict application of the discipline, Mr. M'Elwee mentions the “defect in the construction of the pipes, by means of which defective construction, the prisoners were enabled to communicate,” &c. And this detached paragraph of the report, disclosing a defect in the construction of a water-pipe, is introduced by the Reviewer to prove that “there exists at best great difficulty in preventing communication between convicts in adjoining cells.” Why did not the Reviewer copy the whole paragraph from Mr. M'Elwee's report? Why suppress the two last lines? The reason is obvious—he might as well lay the report aside. “THIS DEFECT,” (he says,) “IS NOT ATTRIBUTABLE TO THOSE

WHO HAVE THE MANAGEMENT AND SUPERINTENDENCE OF THE INSTITUTION, AND, IF NOT ALREADY, WILL SPEEDILY BE REMOVED.”* In other words, it was the result of imperfect workmanship; and, as to the attainment or attainableness of complete insulation, is of no more importance than the course of the wind on the day of Mr. M‘Elwee’s visit. The unfairness, (not to say duplicity,) of which the Reviewer is guilty, is too obvious to escape attention.

To establish the extreme improbability that the efforts which have so sadly failed thus far, to prevent communication between prisoners in adjoining cells, will ever be successful, Mr. Charles Robbins is called, or as the Reviewer presents him to us, “Charles Robbins, Esq., a keeper of one of the prisons in Boston since 1823.”

His testimony appears at length in the Appendix to the Thirteenth Annual Report of the Prison Discipline Society, in the form of a conversation held with Mr. Robbins on the 30th of June and the 2nd of July, 1838. Where it was held, in whose presence, and who was the other party, though circumstances of considerable importance in determining what weight to attach to it, are, for some reason, concealed.

It would seem that this Mr. Robbins left Boston May 31; that he visited the prisons at Wethersfield and Hartford, the House of Detention at New York, the prison at Blackwell’s Island, Sing Sing, Auburn, Trenton—the Eastern and Western Penitentiaries of Pennsylvania, and returned to Boston June 27, being absent four weeks. By whom, or at whose expense, he was despatched on this tour of inspection—who suggested the points to which he should direct his inquiries, and who framed the singular interrogatories by which his report is drawn out, we are left to conjecture. If he was despatched by the Prison Discipline Society, and at their expense—if his inquiries were directed by that Society or their agency, and if the interrogatories were framed and the answers reported at their instance,

we should look upon the whole as a disingenuous, crafty proceeding, utterly inconsistent with the professed object of that Society, and especially discreditable to the reverend gentleman who has been so long and so zealously labouring in its behalf.

But inasmuch as the Reviewer has seen fit to introduce Mr. Robbins to support his position that it is impracticable to prevent communication between prisoners in adjoining cells, and that all efforts hitherto made to effect it have failed, we must e'en follow where he leads.

If Mr. R. is to be believed, the Pennsylvania system not only fails to prevent communication, but actually facilitates it; the prisoners not only talk freely and constantly, but they have their choice of various modes of communication, and they talk so loud that their conversation is heard and is known to be "low, vulgar and obscene." They can talk through their water-pipes; or, by removing the plastering at the place where the air-pipes pass, they can talk through the wall; or they can talk from ventilator to ventilator; or from yard to yard; or by tapping on the wall, "where the least tap can be heard, and after getting acquainted they can understand each other;" and, finally, they can talk, like other neighbours, from door to door "so as to be heard easy enough." And not only are there these various modes and facilities of communication, but it is impossible to detect it without an officer at every door, so that "one officer can do more in detecting on the Auburn plan than ten on the Philadelphia."* The reader will perceive at a glance that this evidence overturns and demolishes at once the whole fabric of the Eastern Penitentiary, and, if believed, shows it to be one of the most amazing monuments of folly, deception and extravagance, that the wit of man has ever planned.

It is pertinent to inquire what opportunity this witness had to investigate the state of the Eastern Penitentiary. It seems from his own account that he made two distinct visits of "at least an hour and a half each." And did he see the warden?

* Thirteenth Report of Prison Discipline Society, p. 104.

No. "He was not in" on either occasion. On the first visit *he was not in*—this is positively stated; but on the second it would seem rather doubtful whether he was not at home. The language of the witness leaves it to be conjectured, that the warden, hearing from one of the under-keepers what a shrewd, searching, fearless Yankee had been there in the person of Mr. Robbins, and conceiving that "the better part of valour is discretion," shrunk from the keen encounter, and basely denied that he was at home!

Well, then, whom did Mr. Robbins see? It is much easier to answer this question than another, viz. Who saw Mr. Robbins? for no living creature on the premises has any knowledge of the man or of his visit, or of the wonderful conversation to which he makes one or more of them parties. The question returns, Whom did Mr. Robbins see?

In the first place he saw one of the inspectors, "a large man," and from him he received a permit to visit the prison; but it seems the large man did not ask Mr. Robbins who he was, nor whence he came, nor what his object was. How did he know but his design was malicious or mischievous? Did he not tell "the large man," frankly, without being asked, that he was a Boston jailer, that his name was Robbins, and that he was agent of the Prison Discipline Society for the purpose of collecting or manufacturing materials for the abuse of the Pennsylvania system of prison discipline? No. It would seem he was not asked to disclose even his name, for to the question asked by his employer at Boston, "Did they know who you were?" he replies, "I think I told the inspector, ('the large man,') that I was keeper of one of the prisons in Boston, but I am not positive." But whom did he see at the penitentiary? Not the warden, for we have seen that he was absent from home or concealed; but he was favoured with the rare opportunity of seeing everybody else employed about the premises. There was a "tall slim man, just passing in, who was said to be the man who visits the convicts daily." He "just saw" the physician too as he was entering a cell, and the matron as she

was coming in or going out of another cell. These various persons were mysteriously flitting about like shadows, but they were said to be living beings, appointed to the functions which they seemed to execute.

But did he see any of the convicts? No. Why not? Why nobody can see a convict without the permission of the warden, and he had prudently absented himself.

"Did you get no opportunity whatever to look upon any prisoner?"

"No, sir."

"Could you not be allowed to do it in any case?"

"Not without permission from the warden?"

"But stay," cries Mr. Robbins, "see no one, did I say? I did see one. I just got a glimpse of a female prisoner as the matron was coming in or going out of her cell. That was all."

"How did she look?" Ah! this is the searching question; and we can almost hear the stern, penetrating voice with which the man behind the curtain urged it home upon his faithful Squire.

Mr. Robbins, tell me now, plainly and fearlessly, how that woman looked; reveal to my longing ear the secrets of that prison-house—tell me, I adjure you! tell me how that woman looked?

"I could not tell how she looked, except that she was sickly."

"Did she look sickly?"

"They told me she was a sick woman and the matron was taking her some medicine."

And thus, by mere accident, Mr. Robbins just got a glimpse of a female prisoner, though not enough of one to tell how she looked. But, besides "the large man," "the tall slim man," the physician and the woman "that they said was sickly," Mr. Robbins saw, it would seem, four or five of the officers. Who they were nobody on earth, but Mr. Robbins, knows. They told him, among other things, that the prisoners talked through the empty pipes; that "Mr. Woods (Wood) was out"—"that nobody could see a convict

without his permission"—that "there is no hospital" in the prison, and that there were "a great many cases of lunacy, originating from an improper use of their persons, which it is very difficult to prevent"—all which proves that there is and can be no such thing as constructing a prison so as to prevent convicts in adjoining cells from communicating with each other! What can be more conclusive than this?

Leaving the Eastern Penitentiary in this deplorable plight for the present, we accompany Mr. Robbins to Pittsburg. Fortunately the warden is surprised at home, and in the course of the examination we have a partial development of his character. In answer to the pregnant question, "Did he appear to be a good man;" we have the categorical answer, "He *appeared* to be." But why such a question? Would the Inspectors appoint a bad man to this responsible post? No; but it seems the prisoners had nothing but preaching on the Sabbath, no morning or evening prayers, and no Sunday school! and, according to the testimony of Mr. R., "the keeper thought this part of the business very well as it was." How could a good man entertain such an opinion as that? Hence the portentous question, "Did he *appear* to be a good man?" and hence too the cautious reply, touching only *the appearance*.

At this prison Mr. R. finds the same use of the water and air pipes that serves the convict's purposes so well in the Eastern Penitentiary; but over and above all this, there is here a new and revolting feature of the Pennsylvania system. To punish a man for talking, they "put him in a box just large enough to put a man in—this box stands on one end, and is so fixed that a man cannot lean one way or the other; and to prevent their kneeling down, there is a piece of hard wood or iron put through the box so as to strike their shins."

"Is it nailed up?"

"There is a door to it, which is shut up."

"How does the man breathe?"

"I don't know—the box is shut up tight."

"Any hole for ventilation that you know of?"

"That I don't know."

"Did he not show it to you?"

"He did not."

"Did you ask to see it?"

"I told him I should like to see it. What the reply was I don't recollect, but I did not see it."

"Where was this contrived?" continues the astonished interrogator.

"It was his own contrivance!"

"What purpose does it answer?"

"Very good, he said."

"Did he know who you was?"

"He did."

It seems then, that with the full knowledge of Mr. Robbins' character and standing, he disclosed to him the existence of this mysterious box; and it would seem too, from all we can gather, that it was a DEATH BOX—think of being nailed up in a pine box—turned up on end! Alas! how many poor fellows have been suffocated in that same box—nailed up—standing upon its end, and the door shut! Who can think of it without a sigh?

We now pass to Trenton, where we come within a hair's-breadth of another horrible development of the abominations of the Pennsylvania system.

"Mr. Yard, the warden, is a very fine man, indeed—a very feeling, fair and candid man, and is willing to give a correct statement of his prisoners at any time."

"Have there been any escapes?"

"They said not."

"No allusion was made to the man that escaped last year?"

"None."

Very fair and candid this, certainly.

But "the man in chains"—how, and where was he?

"Did you see a man in chains in the New Jersey Penitentiary, or hear any thing about him?" asks the Prison Discipline Society.

No definite reply being given, the question is urged with a little enlargement.

“Did you hear any thing of the man in chains, that has been in chains ever since he has been there, and is not subdued yet?”

“I did not.”

The disappointed querist, finding he cannot work up even Mr. Robbins to tell the story to him—and eager to lay hold of some reality to answer to the picture of his distempered fancy, tells the story to Mr. Robbins!

“I have seen a gentleman who says there is a case in which a man has been in chains ever since he has been there, and is not subdued yet. Did you learn how that was?”

Mr. Robbins is still incorrigible. This is rather too much even for his ductile conscience.

“Nothing of the kind was mentioned to me.”

This gentleman also visited the New York prison, and that there may be no appearance of partiality, he is examined with respect to them also. But his account of them is on the whole highly satisfactory. The cow-hides and cat-o’-nine-tails in the hands of the officers of the shops, struck him as “*IN BAD TASTE*,” and he thinks there is generally too much flogging; but in the main the prisons on the Auburn plan are in fine condition, and when corrected in a few “*matters of taste*,” will be what its friends have long ago called it—“a model for Europe and America.”

We have dwelt thus long on this most extraordinary paper for several reasons; 1st, because it is one of the documents on which the Prison Discipline Society rely to sustain the claims of their favourite system to universal confidence and adoption; 2ndly, because it finely illustrates the means by which that society (or rather some one who uses the influence of its organization) accomplishes its purpose; and, 3dly, because the Reviewer uses it to maintain his principal position that the separate system does not and cannot prevent communication. The most unpractised magistrate would indignantly frown on such a series

of questions to a witness; and, as to the testimony which is drawn out by them, what would not be rejected as irrelevant and contradictory, would be laid aside as utterly unworthy of credit.

We now dismiss Mr. Robbins, though we have a word or two more to say about his testimony as used by the Reviewer. A more glaring instance of disingenuousness is rarely seen.

The paragraph in the Review stands thus: "The House of Detention in New York was built, we understand, upon the Philadelphia plan, and was completed very lately." (Of course we are led to understand it is the latest experiment upon the separate principle.) "Mr. Robbins visited this, and in reply to the question whether there was any doubt about communication, the answer was, 'None at all. It is a total failure in that respect. The keeper of this prison told me that the prisoners made such a noise the night previous that he could not sleep. There is a continual noise, he says, and no peace whatever.'"

In the report of Mr. Robbins' testimony which must have been before the Reviewer, there follows, immediately upon the words, "no peace whatever," this question,

"Who said so?"

"The keeper. This was said in the presence of the Chairman of the Board of Commissioners."

"What did *he*" (the chairman, &c.) "say."

"He said they could not be quiet TILL THEY GOT THE DEBTORS OUT."

Here then we have assigned for the "continual noise" in the House of Detention a temporary and removable cause, not connected in the remotest degree with the construction of the prison or the principle of discipline; and the declaration of the chairman of the commissioners plainly shows that nothing was required to stop the noise but to remove a class of persons who ought not to have been there.

The Reviewer closes his examination of this feature of the Pennsylvania system (the non-intercourse of the prisoners) with

a paragraph from Dr. Lieber's essay,* which proves what nobody ever denied, that two weavers occupying adjoining cells can hear the sound of each other's shuttles; and also that the prisoner in one cell may knock on the partition wall, and the adjoining prisoner may hear and knock too! Hence the very logical argument, if the shuttle can be heard so can the voice!

We suppose it would be difficult with the same force to make so loud a noise with any other instrument, of a similar description, as is made with the weaver's shuttle. The shape and material, the substances it strikes in its passage, and the proverbial swiftness of its motion, all combine to produce an exceedingly sharp, penetrating sound, unlike any other. It is so loud and piercing as to be heard the whole length of the corridor occupied by the weavers, and even in the centre building of the Eastern Penitentiary.

Now the whole force of the Reviewer's argument, so far as Dr. Lieber's remark is concerned, is just this and nothing more—that if a prisoner utters a voice as loud and as distinct as the sound of a weaver's shuttle, the voice can be heard as well as the shuttle. Of course the voice could be heard (as the shuttle is) through the whole length of the corridor and in the centre building, and probably by three or four officers at the same instant. If this is the kind of communication which the Pennsylvania system is expected to detect, we admit its inadequacy. The grave is the only prison-house whose walls are so impervious to sound that no human voice can be heard from within them.

The question between us and the Reviewer (or rather the more interested and subtle party behind the curtain) is—whether the Pennsylvania system does in fact so separate one convict from another as to prevent all intercourse between them, whereby they may learn (not each other's existence, or

* A popular essay on subjects of penal law and on uninterrupted solitary confinement at labour, as contra-distinguished to solitary confinement at night and joint labour by day. By Francis Lieber. Philadelphia, 1838.

even occupation, by the sound of a loom or a sledge, but) each other's name, or appearance, or any other facts, or circumstances which can be made known only by articulate sounds, or by visible or audible signs, and which alone can serve the criminal propensities, or purposes of the convict.

It is a paltry evasion of this question of which the Reviewer is guilty, when he attempts to prove that the system is not maintained, because the possibility of the passage of sound is not cut off. It is for him to show that our system does not so perfectly seclude convicts as to prevent combinations from being formed among them, and to preclude all acquaintance with each other's form, countenance and history. If we so completely separate them that, with ordinary vigilance on the part of the officers, they cannot have any knowledge of, or intelligible communication with each other, or attempt to obtain it without instant and certain detection, we have attained, for all practical purposes, this grand *desideratum* in prison discipline—separate confinement.

It is to be remembered, however, that this feature in our system is to be compared with the same feature in the Auburn system; for one of the points on which the Reviewer makes us agree is, "that the prisoner shall be at all times precluded from social intercourse with those who would corrupt him," or his fellow-prisoners as a body. How does the case stand then in a *comparative* view.

Under the Auburn system the convicts constitute one large, silent family. They mingle together from day to day, and become familiar, as brethren, with each other's countenance, complexion, size, gait and peculiarities. Every day and several times in a day, they are brought into close personal contact by the lock-step, or by each man's resting his hands on the shoulders of his file-leader as they march to and from their labour and their cells. They work on the same bench, at the same forge or anvil, or on the same block of stone. At one time, in the prison at Sing Sing, eighteen of the convicts worked together in the kitchen, nine in the hospital, fifteen about the

cells, six in the wash-room, and two in the personal service of the warden; and the only restriction on their intercourse in all these places and occupations, is the eye of the inspector or overseer. If they can elude this they are safe; if they cannot elude it they must be fools.* The smile, the frown, the sneer, the wink, the cock of the eye or of the ear, the whisper, every look, every motion has its significancy. If it is objected to the Pennsylvania system that it does not preclude social intercourse while the weavers in the adjoining cells can hear each other's shuttles, what shall we say of the Auburn system under which convicts can hear each other breathe!

The testimony we have thus far considered is produced to prove that the Pennsylvania system does not separate the prisoner. "Inasmuch as the reasoning in favour of the Pennsylvania system all proceeds upon the supposition of the superior reformatory effect of *solitary* confinement, the argument is clearly inconclusive until it can be shown that it is practicable to render confinement solitary. If this be impossible, the whole system, so far as it respects its distinctive excellence, fails."† The Reviewer then undertakes to show that they have not succeeded even in the Eastern Penitentiary in precluding social intercourse among their prisoners. "So far then as the evidence on this subject has been presented, we are constrained to believe that it is an extremely difficult undertaking, if indeed it be not actually impossible to build cells in such a manner as to prevent communication."‡ And what is the evidence which constrains him to this conclusion? Apart from the testimony of "Charles Robbins, Esq.," he only proves that nearly five years ago a Mr. McElwee was on a visit to the Eastern Penitentiary, and says he discovered a defect in the construction of some pipes, by reason of which the convicts did communicate with

* "This intercourse, however slight and occasional, materially contributes to destroy that feeling of loneliness which is the greatest of all moral punishments, and which absolute and unremitted seclusion cannot fail to inspire." Crawford's Report, (1834,) p. 19.

† Rev. p. 35.

‡ Rev. p. 34.

each other, and he adds that this defect would be supplied at once, if it was not supplied even before he told the story! We submit with confidence that this is the very sum and substance of all the evidence which is produced by the Reviewer to support this grand, leading point of his case. But even if Mr. Robbins' stories were believed, they *prove* nothing to affect this question. They are matters of private opinion, formed upon very slight and hasty observation, without judgment or experience, upon very partial and vague information, and evidently with a view to answer the purposes of the Prison Discipline Society. It is fortunate that the imposition is so gross as to be harmless.

As to Mr. Newcomb's testimony it expresses only his private opinion upon the physical impossibility of admitting the passage of air, and at the same time excluding the passage of sound. For ventilation there must be an opportunity for air to pass into the cells and to escape, and where air will pass sound will pass—*ergo*, the convicts in adjoining cells must talk or die. There's logic! Mr. Newcomb does not pretend that he ever saw a prison the discipline of which was administered on the Pennsylvania principle. He may be a philosopher and a logician, but he claims no credit for his knowledge of practical prison discipline.

Why Dr. Lieber is introduced we know not, unless it be to confirm Mr. Newcomb's axiom, that where air will pass sound will pass also. But unfortunately for the Reviewer, Dr. Lieber's sentence is so constructed that he cannot divide that which makes for him from that which makes against him. The bitter must be taken with the sweet. He confirms Mr. Newcomb's premises, but he annihilates the conclusion to which it was evidently intended to lead; for he positively testifies to two instances within his personal knowledge where air and sound both passed between adjoining cells, yet the prisoners occupying them had no knowledge of each other! The separation was complete—the insulation perfect—

the confinement strictly solitary—communication impracticable. This seems to settle the point.

The Reviewer, however, cuts what he cannot untie. He uses so much of Dr. Lieber's testimony as supports his case and flatly contradicts the rest; and what is much less excusable, he detracts materially from the weight of the Doctor's testimony by misrepresenting the source of his information. The whole paragraph from Dr. Lieber is as follows:

"I once found a prisoner in the Philadelphia Penitentiary who told me that it was music to his ears to hear the shuttle of his neighbour, and that without knowing who he was, he used to vie with him in the swiftness of using it. I once heard, in visiting a cell, an indistinct knock against the wall. I asked what it was and who was the neighbour? The prisoner answered he did not know, AS WAS THE FACT; but once in a while his neighbour knocked and he answered. And for what purpose, I inquired; is it a sign? No, sir, he replied. Of what should we give signs? It is only that he says here am I, and I answer I am here. He owned he had been told not to do it, and it was always at the risk of the keeper's hearing it, still they did it now and then."*

The Reviewer, for obvious reasons, omits all the explanatory paragraph after the word "answered," and remarks as follows upon the fragment that he uses.

"We cannot bring ourselves to adopt the persuasion of Dr. Lieber, that where shuttles can be heard so distinctly as to be made to vie with each other, the voice of a man could not be heard; nor can we rely with him upon the declaration of the convicts, that "*such is the fact.*" *Credat Judæus.*† We use the Italics and quotations as they appear in the Review.

Did Dr. Lieber rely *on the declaration of the convicts* that "such was the fact?" No such thing. On the contrary, he studiously excludes any such conclusion. He asserts it as a distinct circumstance, independent entirely of what the pri-

* Lieber's Essay, pp. 87, 88. † Rev. p. 34.

soner had said. To the question who occupied the contiguous cell—the prisoner answered, I do not know; and Dr. Lieber says of his own information and authority, “*THAT THIS WAS THE FACT.*” He might have derived his knowledge from the warden or keeper, or from any one of a thousand circumstances that would establish the point beyond question, and yet the Reviewer employs this sly mode of conveying the false impression that Dr. Lieber was weak enough to rely on the *declaration of the convict!*

Has the Reviewer, then, made out the first point of his case? Has he established by credible evidence a single important fact to show that it is “extremely difficult, if indeed it be not actually impossible, to build cells in such a manner as to prevent communication?” Has he even rendered it very doubtful whether any such cells have yet been constructed? We think not.

II. But suppose it should be admitted on all hands that the Pennsylvania system does literally insulate the prisoner and cut off all and every kind of intercourse between him and his fellow convicts; still the Reviewer maintains that the Auburn or silent system is to be preferred, and chiefly because it is “the most successful as a school of reformation.” To prove this, reference is had to the number of re-commitments. “The better and the more reformatory the system,” he says, “the fewer convicts would manifestly return to require the benefit of its discipline.”*

To our great disappointment, however, he contents himself with a single item of evidence on one side, and with his own unsupported assertion on the other. We could supply him with a bundle of statistical documents on this subject which we would use ourselves if they contributed at all to elucidate the point; but we by no means agree to the position of the Reviewer, if he means, as we presume he does, that the reformatory influence of a prison is shown by the number of convicts

* Rev. p. 35.

committed to it a second time. The true question would rather be, what portion of those who undergo the reformatory discipline of these prisons respectively are re-committed *to any prison*. The injustice of the other test may be made apparent by a single fact: "In the year 1828," says Mr. Crawford, "the superintendent of the Auburn Penitentiary published a work in which he gave a list of one hundred and sixty convicts, four-fifths of whom were stated on their liberation to have become honest and respectable. On my visit to the Penitentiary at Sing Sing, I found that thirty of these persons were then in that prison, and I was assured that an additional number of twenty had also been there since the appearance of that publication."* In the reports of the Sing Sing prison, not one of these fifty convicts appears as re-committed, because he never was in Sing Sing before, and in the reports of the Auburn prison they would appear among the fruits of reform! What could be farther from a true representation of the case?

So far, therefore, as re-commitments, under either system, furnish a test of its reformatory power, they must be ascertained upon a much larger scale than our Reviewer has adopted.† The prisoners under the Auburn system having the opportunity, while together, to form new acquaintances, to digest their plans, and to select the theatre of their future operations with a view to more security and better success, are found scattered

* Crawford's Report, 1834, p. 19.

† Experience in England has furnished striking evidence that the absence of re-commitments is no proof of the deterring or purifying effects of the imprisonment—some of the best prisons having more re-commitments than others which are remarkably defective, owing to the former being situated amidst a dense population where the inducements to commit crime are more powerful than in agricultural districts; but proofs are still more abundant in America, in which extraordinary facilities exist for travelling to great distances, and where convicts can, on their liberation, leave one State with the utmost ease to pursue their old habits in another. In my visits to the several penitentiaries, I constantly met with prisoners who had been inmates of the jail, the keepers of which were ignorant of their conviction." (Crawford's Report, 1834, p. 14.)

all over the country. There is scarcely a State prison in the Union where from two to twenty prisoners are not found who have been in one or more of the New York Penitentiaries. We do not however regard this circumstance, by itself, as showing the inadequacy of their system to reform the convict.

When it is considered how few penitentiaries we have on the Pennsylvania plan, it would be passing strange if the larger proportion of re-commitments were not from the Auburn prisons; and, on the contrary, it would be a natural and probable result of the Pennsylvania discipline, that its subjects, if not reformed, should be returned to their old homes. Their perfect insulation from society for a series of years breaks up all their plans and associations. Even if the desire to return to scenes of depredation and licentiousness predominates, their long abstinence is of itself a temporary barrier to indulgence. They must recover the skill in duplicity and knavery, which is never laid aside where prisoners associate, but for which there is no occasion where they are insulated—and this takes time. Their circle of companions must be formed anew, and the habits of open and outrageous crime are not resumed without much embarrassment after so long and complete interruption. The prisoner when leaving the Eastern Penitentiary finds himself alone. If there are none to sympathise with him, neither are there any to tempt and torment him. He looks around for the means of honest employment or of self-indulgence; but there is nothing to urge him to some distant place. He is as little known in the vicinity of the prison as at any place in the wide world.

Not so at Auburn, Sing Sing, Wethersfield, Charlestown and other prisons where social discipline is employed. There the convict may keep alive his criminal associations and connexions up to the very hour of his discharge. Innumerable methods of communication which elude the most practised eye may be employed to preserve and extend a knowledge of each other's person, history and plans. But the Reviewer would have us believe that this advantage which we claim for the separate

system, is altogether imaginary. He says, "the inmates of penitentiaries have served a regular apprenticeship in crime, they have been publicly arraigned, tried, convicted and sentenced over and over again in the lower courts, and are acquainted with all the men of their own profession in the district in which they live. We cannot make men forget public and notorious transactions. What is in all the newspapers cannot surely be a secret. We cannot make the convict forget all his old associates. It seems to us therefore to be assumed that solitude can do what is manifestly impossible to be done."*

It would be difficult to compose another paragraph of the same length which should betray a more profound ignorance of the Pennsylvania system and its effects, and indeed of the ordinary facts of criminal history, than this.

A man is arrested in Philadelphia for forging a bank check. He belongs to a party of accomplished villains who lately left New Orleans, and who are scattered, for a season, with the prospect of resuming business at the south at a future day. The prisoner is immediately conveyed to a solitary cell to await his trial, which shall take place in the shortest possible time after his arrest. The papers mention the case and give the assumed name of the culprit with half a dozen *aliases*. This notice, if it should be copied into other papers, and fall under the eye of some of the prisoner's associates, (if perchance they belong to the few of this class who read newspapers,) will furnish no clue to the fate of their unfortunate companion. He is at length tried alone. Perhaps some of his *quondam* friends are among the spectators, but it is not for the interest of either party that the slightest recognition should take place there. He is convicted by his own confession or by verdict, and is forthwith conveyed to a solitary cell in the Eastern Penitentiary. Here he remains five years without the remotest intercourse with the world by letters or newspapers, signs or sounds, and is of course as perfect a stranger to the criminal circles of the place to which

* Rev. pp. 37, 38.

he is introduced at his discharge, as if he had spent the same period in the caverns of the ocean.

Another of the gang is arrested six weeks after, in the same city, if you please, passes through the same process, and is committed to some other cell of the same penitentiary. Now, suppose the separation to be actually effected, which this institution professes to effect, what is the probability of their recognising each other after their discharge? By the terms of the proposition neither of them knows the fate of the other—the place, nor term of his imprisonment, nor the time of his discharge. Supposing both to have received the same sentence, by the time the confinement of the last terminates, the first, having six weeks' start, is perhaps hundreds of miles from Philadelphia, and when the last is discharged of whom shall he inquire, or in what direction shall he look for his former associate? Does the Reviewer suppose that five or even two years make no changes in the relations and associations of blacklegs, pickpockets, and horse-thieves? Does he suppose they maintain their position in society from year to year? Does he not know that it is the very *chef-d'œuvre* of a police officer to trace their evolutions, and keep sight of them in their endless variety of shifts and disguises? And does he suppose that the convict, upon his discharge from a confinement of several years, will find his accustomed haunts undisturbed and the band of his former associates unbroken? Will he call to mind newspaper paragraphs, or consult a publisher's file to aid his recollection of "those who were tried, convicted and sentenced over and over again in the lower courts?" How preposterous the reasoning of the Reviewer! How utterly at war with facts and daily experience!

But let it be remembered again, that the question turns upon *comparative* merits. The Reviewer doubts whether the separation we have supposed is attained, and if attained, he denies the possibility of securing the advantages which are attributed to it, or any benefits which the social principle cannot confer. Let us then look at the same example as it would be presented under the

Auburn discipline. These two convicts might spend the whole period of their confinement in sight of each other—nay, they might work at the same forge, or upon the same bench; and in this position what human power can prevent their signifying to each other their respective offences and sentences? As the end of their term approaches, there are but six weeks' separation to be provided for, and then they may meet when and where they please. With a knowledge—not of each other only—but of their associates in durance who have been, or shall be from day to day discharged, for weeks and months before and after their own release. Will any man in his sober senses maintain that the former mode of discipline (supposing it to effect the perfect seclusion of the prisoner) is not incomparably superior to this, as it respects the opportunity it affords for acquaintance and intercourse while in prison, and the facilities of recognising each other after their liberation? The ground taken by the Reviewer upon this point of the discussion cannot be held without violating every principle of truth, candour and common sense.

We think we have shown, then, that the Eastern Penitentiary does effectually separate the convict and intercept all communication with his fellows, and that this feature of its discipline gives it an essential and inestimable advantage over the Auburn or social system.

III. The friends of separate discipline maintain that from the very nature of things we can dispense with the severity and brute force which is employed, and which is probably essential to the maintenance of subordination, where the convicts associate for daily labour and other purposes. In the words of the Reviewer, "As it (the separate system) never requires the infliction of severe punishments, it is the more merciful."* We do not say that it is impossible for the warden of the Eastern Penitentiary to enter the cell of a convict and put him to death; nor do we say that every man in the Auburn or Sing Sing

* Rev. p. 31.

prison receives a certain number of lashes periodically, as regularly as he receives his meals; but we do say, without qualification, that a severe and harsh discipline is much more necessary to keep four or five hundred convicts under control when they are collected in an open yard or in a range of work-shops, than when each man is securely confined in his own cell. No man can visit a prison of the Auburn construction, and mark the eye, the countenance and the motions of the keepers without perceiving that their power lies in the bodily fear with which they inspire the convicts. A sense of their own superior physical strength must occur to the prisoners at every glance over a work-shop or a quarry, but each man knows that his life, and perhaps many lives, must be sacrificed in a revolt; and this personal fear, without the certain prospect of personal advantage, is the restraining principle. Hence every part of the discipline is designed to cherish and increase this fear. Nothing degrades a man and tries his spirit of resistance like a flogging, and the submission of the convict, time after time, to this humiliating discipline, involves an acknowledgment of the despotic power of the keeper.

All this the Pennsylvania discipline avoids. Whatever discipline is necessary there to correct and subdue, may be quietly and silently imposed. The angry passions are not stirred up, nor a sense of personal degradation forced on the helpless convict. To abuse a prisoner under such circumstances, would evince a barbarity rarely seen in the worst of men. There is no temptation to do it. There is nothing gained by it.

But the Reviewer finds us at fault here: "The assertion," that the Pennsylvania system is more merciful, "is not sustained by evidence. It is granted that at Auburn and at Sing Sing great severity has at times been used.*** On the other hand, we have seen that resort has been had to severe punishments under the Pennsylvania system.*** In the Eastern Penitentiary the punishments were at one period such as to call for legislative inquiry."*

* Rev. pp. 36, 37.

If the Reviewer had spread out the facts of the case, (as he unquestionably would have done if his mind were free from prejudice,) the impression left on the minds of his readers would have been much more in accordance with the truth. Why does he not give us the result of the "legislative inquiry." He tells us "that in one case a man died under the infliction of the gag." Why does he not tell us that the "legislative inquiry" showed that the death of the convict was not caused by the use of the gag, but by a chronic disease.* He tells us that "another convict was seriously injured by the profuse dashing upon him of cold water in mid winter." Why does he not tell us that the "legislative inquiry" showed, that no ill consequence followed.† He tells us that "other cases existed of the excessive use of the strait-jacket," &c. Why does he not tell us that the "legislative inquiry" showed, that no improper use was made of the strait-jacket, &c.‡ Why this concealment—this palpable and continued perversion of truth and fact?

But turn the tables. Compare these groundless charges of severity under the separate system, which the Reviewer knew or ought to have known were made in ill-blood, from motives of resentment and had been moreover completely disproved—compare these with the facts set forth in a report of a committee of the New York Legislature appointed to visit the Sing Sing prison (on the Auburn plan) in the winter of 1838–9, and which is copied in a supplementary note to the Review now before us.

"It also appeared in evidence," (says the Report,) "that the convicts under this system were not supplied with a sufficient quantity of wholesome food; that during the year 1837–8, convicts failed to perform their usual tasks, and when reprimanded for such omissions, they would allege, *with tears* in their eyes, their inability, arising from want of food to sustain them; that when they applied for additional food, they were frequently

* Page 14 of the Legislative Report.

† Page 13 of the Legislative Report.

‡ Page 15 of the Legislative Report.

beaten away by the superintendent of the kitchen without it; that instead of the legal rations of beef and pork, codfish had been substituted at one time from August to January, and that instead of molasses with mush, the grease skimmed from the pots was substituted, and that the convicts were on various occasions seen snatching offal from the swill-barrel in order to satisfy the cravings of hunger. It was also proved before the committee that cruel and unreasonable punishments have been often inflicted within the prison. For small offences 80 or 100 strokes upon the bare back and legs have been given by an instrument which multiplies every stroke by six, that severe punishments have been inflicted on persons manifestly insane; in one case 1000 lashes were inflicted on a woman in the space of a week. Convicts have been disabled by scourging so as to require treatment at the hospital—assistant keepers have stripped and whipped a convict, for insults offered such officers before conviction—discharged convicts have been seized and compelled to work again at the will of officers.”

And will it be believed, that during this very same period, when the miserable famished convicts were lifting up their tearful eyes to their keepers for food—when they were supplied with codfish instead of beef and pork, and grease instead of molasses—when they were actually snatching offal from the swill barrel to satisfy the cravings of hunger, the great State of New York was reaping a profit of upwards of \$17,000 from the earnings of these very men! Yes, and they, poor fellows, had their chaplain, and their public worship, and their evening prayers; and while they were writhing under the tormentor's lash and fainting with hunger, the profits of their labour, extorted by such appalling cruelty, were carried to the credit of the State Treasury!

The contrast is perfect. On one side we have an account of a mysterious box in the Western Penitentiary which, so far as the evidence goes, has never been seen, and we are also told of three specific instances of severe punishment in the Eastern Penitentiary, which, upon legislative investigation, were found

never to have occurred; while, on the other side, we have a statement of facts proved to the satisfaction of a committee of the New York Legislature, showing cruelties more barbarous and revolting than language can describe; inflicted without cause or pretence, and that too upon the defenceless victims of insanity! And yet the Reviewer strokes his chin, and gravely tells us that "both systems are liable, perhaps equally, to abuse. Nay, if there be any difference in this respect, we fear it will be against the solitary system; since under this system cruelty may be indulged with but few witnesses, and those altogether under the influence of the oppressor."*

In describing the condition of our prisons before the modern improvements were introduced, the Reviewer says, "The prisoners were sometimes beaten with the lash, and in general the government of the prison was left, without much responsibility, to the warden and keepers.*** That in this protracted struggle for supremacy the heart of the keeper should become steeled, and all the fountains of his sympathy dried up, was of course to be expected. It would be a miracle were it otherwise. His will must become an iron will—his word must be law—his authority would be endangered by any manifestation of tenderness. Knowing that he has to do with men on whom, in their present situation, no moral or social motive would produce effect, he must govern by a perpetual appeal to personal fear. Can any one doubt whether with the degree of virtue which falls to the share of ordinary men, there is one out of a thousand who would not, under such circumstances, become a tyrant? The effect of this treatment upon prisoners may easily be conceived. The criminal believed himself to be used with unfeeling harshness, and he hated the jailer who restrained him, but most of all society by whose authority the jailer acted."†

Let any man read the revolting details of suffering endured by the convicts at Sing Sing as above set forth, and then say whether the system of prison discipline under which they

* Rev. p. 37. † Rev. pp. 10—12.

occurred is an essential improvement in this respect upon the discipline which the Reviewer describes as belonging to a past age.

IV. The next topic of remark in the Review is the comparative *healthiness* of the two systems. The writer admits that "the danger of solitary confinement with labour has certainly been overrated;* but still he asserts that the average mortality at the Eastern Penitentiary for eight years exceeds by about one per cent. the average mortality at other prisons. This is not attempted to be proved, and could not be proved if the attempt were made, and if proved would not support the Reviewer's position.

A thousand causes may increase or diminish the per centage of deaths in a prison, none of which have the most remote relation to the particular mode of discipline, whether silent or separate. The location of the building—the quality of the water—the cleanliness of the convicts—the nature of their employment—food, &c., are a few of the thousand. It is perfectly obvious, however, that so far as contagious diseases are concerned the separate or solitary system must have altogether the advantage. And as to the abuses of person, to which the Reviewer would have us think the separate system "peculiarly liable," it is equally obvious, we apprehend, that the excitements to such abuses are no less where the prisoners associate, and where the prison is open daily to a throng of visitors of both sexes; and as to the opportunity of indulgence, both systems furnish it in an equal degree, though perhaps not for an equal length of time. In respect to comparative healthiness, therefore, there is at least no evidence to turn the scale in favour of the Auburn system.

And here again it gives us pain to advert to another instance of disingenuousness on the part of the Review. A note upon the paragraph respecting the health of prisoners under the two modes of discipline, informs us, that "the last

* Rev. p. 38.

and Tenth Annual Report of the new penitentiary in Philadelphia is awful in its results. The average number of prisoners was 402; the deaths 26, or $6\frac{1}{2}$ per cent." Now a man who was disposed to furnish the community with information to be relied upon in determining grave and interesting questions of public policy, would not have left an utterly erroneous impression on this point. With the Report before him, he would have felt constrained, in common honesty, to say something like this:

"The tenth and last Annual Report of the Eastern Penitentiary contains facts on the subject of prison-health which are well worthy of consideration. The mortality there the past year has been greater than in any previous year. But the increase is accounted for by the prevalence of small pox and chronic diseases among the coloured prisoners. Nearly three-fourths of the per centage of deaths have been among this class of prisoners. The per centage among the whites is only one per cent. more than the ordinary degree of mortality in the community at large; while among the coloured convicts the per centage is more than double the ordinary degree of mortality among the same class out of prison. There is no sufficient reason to believe that this unusual mortality is in any degree the result of peculiar discipline, but is probably owing to the unusually large proportion of coloured prisoners whose health and habits are known to be degraded and vicious to the last degree. Of two thousand prisoners in Sing Sing, Auburn, Charlestown and Wethersfield in 1837, only two hundred were coloured, while of three hundred and eighty six in the Eastern Penitentiary, one hundred and fifty-four were coloured. These facts are considered sufficient to show that not the peculiarity of the discipline, but a peculiarity in the class of prisoners, swells the bill of mortality at the Eastern Penitentiary. With all this disadvantage, the physician's report states that "55.5 per cent. only of the admissions were in good health, whilst the dismissions in good health are as high as 75.20 per cent. Showing a surplus of health from the insti-

tution of 20.15 per cent.; and again, 44.27 per cent. of the admissions were in imperfect health, while the dismissions in imperfect health were only 24.70 per cent., a surplus of ill health from the community of 19.48 per cent.—that is, the Penitentiary has been the recipient of disease and the dispenser of health.”*

“We might add also in regard to the effect of the separate system upon the mind, this report furnishes very satisfactory evidence that no evil is to be apprehended on this score. It shows that the cases of mental disorder are mostly among the coloured prisoners; are of short duration, and arise from a known cause common to all prisons, almshouses, and even much more respectable establishments. It appears that the cases of disordered intellect were thrice as many among the coloured as the white prisoners; and that in more than half the cases, whatever disease of mind there was, appeared within an average of five months and twelve hours from their commitment. This is accounted for by the physician from the fact, that in the early period of separation from the low forms of sensuality to which prisoners of this class have been accustomed, they are strongly disposed to the habit that first produces diseases of the body, and then weakness or aberration of mind. “Remove this cause,” says the report of the physician, “and the diseases of this penitentiary will be chiefly those brought into the institution.”

“We do not say how far these conclusions may be borne out in the subsequent history of the Eastern Penitentiary, but certainly the facts here stated, upon the best authority, do very clearly show that the discipline which is employed there compares very favourably with that at prisons on the Auburn plan, so far at least as it respects the physical and mental health of the subjects.”

This, we submit, would be substantially the course of re-

* Tenth Annual Report of the Inspectors of the Eastern Penitentiary, page 131.

mark on this topic which a fair, ingenuous mind would pursue. To say less is to suppress the truth; to say more would not be necessary to vindicate fully, upon these points, the separate system of discipline.

V. The only remaining topic of inquiry treated in the Review is the *comparative expensiveness* of the two systems; and on this subject it will probably be admitted that the annual profits of prison labour, under any discipline, may be very considerable, while the State is, on the whole, a great loser. Two or three men let loose upon society, exasperated and maddened by years of oppression and abuse under cover of law, will soon make accounts even with the government, and throw a fearful balance to the opposite side.

That the Auburn, and indeed any system of prison discipline, can be made to yield a present profit to the State, is beyond all question. Such a system of retrenchment as was pursued at Sing Sing—the mere substitution of pot grease for molasses, and codfish for beef and pork—with a corresponding reduction in the quantity of rations, together with the vigorous use of the lash to goad the fainting convicts to their required tasks, could scarcely fail to show a profit to the State in dollars and cents. But the Auburn system is not perfected yet—it is impossible to conjecture what the expense will be when the plan is completed, “whether we consider the original cost of the arrangements, or the amount required for the annual maintenance of the prisoners.”

It is admitted by the Reviewer that intercourse between prisoners, under the Auburn discipline, must take place. “The weakest point, as it seems to us, in the other (Auburn) system, is the liability to intercourse between the prisoners, which we think must exist in the work-shops.”* How much more in the kitchen, in the hall, in the chapel, in the Sunday school, and in the marchings and countermarchings to and from their cells? “This might, to a much greater degree, be remedied.”

* Rev. p. 42.

As it is now "the workshops seem not to have been built with any special intention to prevent intercourse between the prisoners."* Certainly not. The grand object is to construct the buildings and arrange the work and the workmen so as to secure the largest possible revenue.

But what is the remedy? Why, obviously to change the construction of the buildings. "The main point in them" (the buildings) "should be to prevent intercourse." To this end they should be smaller and more numerous."† This is the very characteristic of the Pennsylvania system. The main point regarded in the construction of shops is to prevent intercourse; and to this end they are made of such size and number that each man can have a shop to himself. Is not this the perfection of the Reviewer's scheme, provided it would only yield a profit that should make the system popular? When the workshops are increased in number and reduced in size so as most effectually to prevent intercourse between the operatives, we shall find "the original cost of the arrangements" of an Auburn prison to be equal, dollar for dollar, to the original cost of the arrangements of a Pennsylvania prison, of equal capacity.

And then as to "the amount required for the annual maintenance of the prisoners," the same uncertainty exists; for the Reviewer admits that "to remedy in a greater degree" the present liability to intercourse between the prisoners on the Auburn system, "the proportion of overseers should be greater."‡ How much greater he does not say. One overseer to every convict would not prevent their intercourse, if they were in the same apartment. One overseer to every ten convicts would absorb the largest annual balance which any Auburn prison has ever yet earned. And after all, "the liability to intercourse" is not removed; it is only "remedied in a much greater degree." It is diminished, not intercepted.

But besides this, the trades must be changed. The profitable business of stone hammering, coopering, &c., must be given up,

* Rev. p. 42. † Rev. p. 42. ‡ Rev. p. 42.

and to remedy in a greater degree this liability to intercourse “the most noiseless trades” must be introduced, “so that conversation can be most easily detected.”* To accomplish this the shops must become what the Reviewer’s theory contemplates, “calm and voiceless as the movement of the spheres.” This would work a prodigious change in “the original cost of the arrangements” of an Auburn prison, and would marvellously affect the footing of their annual accounts “for the maintenance of their prisoners.”

We see then, as it respects the item of expensiveness, that the loss or gain on a year’s business is no criterion by which to judge of the merits of any system of prison discipline—that if it were a criterion, we have no *data* at present by which to judge of the result of the two systems under consideration—inasmuch as a defective administration may produce a favourable or unfavourable result, which will prove nothing respecting the economy of the system when properly administered; and moreover the Auburn system is as yet but imperfectly developed, so that when its acknowledged defects and weaknesses are supplied, the probability is it will equal, if not exceed, both the original cost and the annual expenses of the Pennsylvania system.

If it were our object in these remarks to commend the Pennsylvania system to public favour, we should show in this connexion that the number of its subjects can be increased indefinitely, without any considerable increase of police expenses, and without danger from the accumulation of physical power. It is the settled and oft repeated opinion of those who are practically acquainted with the Auburn system, that not over four hundred convicts should ever be under discipline at the same time at one prison. When the increase of population and crime shall require much more extensive accommodations for delinquents, we shall see the comparative economy of the rival systems more perfectly exemplified.

* Rev. p. 42.

For the benefit of the reader, as well as for the sake of the contrast it affords, we will transcribe the Reviewer's outline of a system of effective prison discipline.

"In the first place the man has probably been for years under the influence of passions rendered ungovernable by habitual intemperance and uninterrupted vicious associations. He must then be removed as far as possible from every such excitement. Nothing that can intoxicate or that can recall the remembrance of intoxication (as tobacco for instance) should enter the walls of a prison. There should be no noise, no altercation, no loud speaking, no exhibition of excited passion, but all should be calm and voiceless as the movement of the spheres."*

Who that has visited the Eastern and the Auburn penitentiaries will hesitate to say, under which mode of discipline the passions are most likely to be excited, or which government most resembles "the calm and voiceless movement of the spheres?"

"In the next place," continues the Reviewer, "since much of every man's wickedness is to be traced to intercourse with the wicked, this cause of contamination is to be removed. The prisoners, instead of being allowed to confer with each other, should be kept in ignorance of each other's history, and be deprived of the opportunity of forming each other's acquaintance. And inasmuch as reflection on moral subjects is always most effective and disciplinary in solitude, a considerable portion of every criminal's time while in prison should be spent in a solitary cell."†

Who, that knows any thing of the two systems of discipline we have been considering, will doubt for a moment which most perfectly separates the wicked from each other's company, and deprives them of the opportunity of forming each other's acquaintance? And as to solitude, we know not that the Auburn system contemplates it at all, except at night for sleep and in the day for meals. Most of the hours that are not necessary for

* Rev. p. 22.

† Rev. p. 22.

these purposes are required to secure a satisfactory result of the year's business.

"But were this all, only half our work would be done. The Bible should be placed in his cell, and a faithful, benevolent and discreet religious teacher should be provided for him. Opportunities should be afforded him of conversing alone with his spiritual guide, and thus all the agencies should be employed which we could in any case use for restoring a fallen human being to virtue."*

A more accurate description of the moral discipline employed at the Eastern Penitentiary could not easily be written. But pray, what opportunity has the convict under the Auburn system to read his Bible, or "converse alone with his spiritual guide." It can only be when he retires to eat or to sleep. All the residue of his time is seized with a ruthless, miserly grasp, and used inch by inch, not for the benefit of the prisoner or his family, but to swell the credit side of the annual accounts!

Two or three interesting topics, unconnected with the main subject, we have reserved for distinct consideration.

1. As to the origin of all the abuse, obloquy and misrepresentation by which the Pennsylvania system has been assailed.

We believe it may be traced principally to one source. The Prison Discipline Society, (whose seat of operations is at Boston,) at an early period of prison reform in this country, committed themselves fully to the Auburn system, and took equally decided ground against the principle of separate confinement; and from that day to this, by whatever agencies or instruments they could make subservient to the purpose, that society has carried on a warfare against the Eastern Penitentiary, and, as we do most fully believe, against the interests of humanity—which they seem disposed to prosecute, if such a thing might be, to extermination. Where facts have failed, recourse has

been had to conjectures, probabilities and inferences; and where these have proved inadequate, sly interrogatories and pregnant inuendoes have supplied their place. What they could neither see nor hear they have imagined, and have thus worked themselves up, at times, into a state of nervous excitement on this subject, (as for example, when they saw the man in chains at Trenton prison,) which would almost justify their commitment (at least by attorney) to one of the best lunatic asylums which they have very humanely assisted to build up. Nothing but this inveterate and uncompromising hostility would have excited men of cool temper and good sense to spread before the public such a dialogue as that with "Charles Robbins, Esq."

At the beginning of the controversy the objectionable points in the separate system, as stated by the Prison Discipline Society, were almost innumerable; but they have been abandoned, one after another, as truth and experience have shown their weakness. In the very first report (1826) the Society takes the ground, that with a certain plan of building which they describe, and "the system of discipline and instruction introduced at Auburn the great evils of the penitentiary system are remedied. Here then is exhibited what Europe and America have been long waiting to see, a prison which may be a model for imitation."*

In the second report is commenced that tissue of misrepresentation and sophistry which runs through all the subsequent volumes of the series. No prison on the separate principle had then been constructed in this country. The progress of the Eastern Penitentiary was arrested by doubts and fears. The objections were set forth in the most imposing array. There was the impossibility of preventing communication between prisoners in adjoining cells—then the danger to the prisoner that when thus insulated he may die in distress and no one know it—then the difficulty and expensiveness of inspection—the offensiveness of the water-closets—the absence of

* Prison Discipline Society's Report, 1826, p. 38.

the chapel and Sunday school services, and, finally, the expense. The building proceeded, and in the third report these anticipated objections were strengthened and drawn out and multiplied to a most alarming extent. Some of them are worthy of remembrance.

“The keeper’s apartments are badly constructed—unfit for a civilized and christian family—difficult of access, and exposed to the shrieks of the insane and the groans of the dying, mingled with the yells and curses of abandoned profligate female convicts in adjacent apartments.

“The food must be carried from one side to the other of a twelve acre lot.

“In carrying it fragments of meat and vegetables will be dropped and soup spilled!

“The servants will be bribed and slip tobacco, spirits, letters, &c., into the dishes.

“It will be difficult to shave the prisoners, as there are so many doors to unfasten.

“Fits, sudden deaths, cramps, palsies and the like could not be provided against.

“The convicts will abuse the ventilators—freezing themselves to death at one time by a rush of cold air, and suffocating themselves with heat at another. They will also waste the water by keeping it running, &c.”

These are but specimens of the class of objections which were published to the world in the Third Annual Report (1828) of the Prison Discipline Society, pp. 41, 42.

The Eastern Penitentiary was completed and occupied in 1829, and has ever since been the standing topic of abuse in the subsequent Reports of the Prison Discipline Society. So invariably and systematically has this course been pursued, that one might think it was an important (not to say, leading,) design of that Society to hold up the Eastern Penitentiary to suspicion and reproach—varying the mode of operation as convenience or effect required.

Sometimes several letters have been published from distin-

guished men in answer to certain inquiries, ingeniously framed to draw out a desired reply—the reply itself being based on information previously furnished by the Society. At other times a series of questions are propounded with the most imposing gravity, the very terms of which involve an answer; and then again some trusty 'Squire is despatched on a secret embassy to ferret out the poor convicts who are dangling in chains at Trenton, or dying by suffocation in pine boxes at Pittsburg! And to give character and currency to these proceedings they have collected their patrons and friends together annually, and prevailed upon some lawyer or prison chaplain "to tell the tale that's told to him," and then the letters and reports, and dialogues and speeches, are all stitched up together and called "the ——— Annual Report of the Prison Discipline Society."

We do not mean by these remarks to derogate from the value of these documents. So far as they embody facts and accurate statistics on this interesting subject, we cheerfully give the Society credit for much patient labour and investigation; but unhappily for the cause of truth and humanity they selected the Auburn prison as "the model for Europe and America," while the merits of the rival systems were but very partially developed; and having once committed themselves to this theory, they have made every consideration yield to its support. We do not pretend to determine how far men are responsible for sins committed under the influence of prejudices which they have willingly imbibed and wilfully cherished. We know that there are cases in which the law holds an offender to be the more guilty, if he voluntarily unfits himself to discern between right and wrong. The application of the principle we forbear to make.

II. It is a remarkable fact that the objection to the separate system which has been most frequently and vehemently urged, and which has operated perhaps more than any other to excite fear and distrust—we mean its tendency to enfeeble or derange the mind, is at length ENTIRELY ABANDONED. The Review

before us, which may be regarded as the latest exposition of the views of the Prison Discipline Society, scarcely alludes to it, and does not enumerate it among the objectionable or even doubtful aspects of the system. Indeed we are rather left with the impression that the Reviewer considers this point as altogether untenable. We are not surprised at this if he has read both sides of the controversy, but it is so rare to find an advocate of the Auburn system who has done this, that we should rather incline to think that the judgment and good sense of the writer, having gained the ascendancy at this point of the investigation, led him to reject at once so crude an opinion without the accumulated evidence on the subject which would force any honest mind to the like result. A man of science would admit, upon well known principles with which he is familiar, that a vessel could be propelled by steam, while an equally honest man, with less information, would wish to see the boat in motion before he believed it.

III. The two modes of discipline pursued at Philadelphia and Auburn have long been under public examination. Not only have commissioners from several of the United States visited and examined prisons upon both plans, and made reports which have been freely discussed in their respective legislatures, but distinguished commissioners from other countries, and travellers from all parts of the world, have closely examined the principles and results of each mode of discipline, and have freely expressed their opinions. And it is a fact well worthy of special consideration that scarcely a solitary individual, (unconnected with the Prison Discipline Society, or some prison on the Auburn plan,) has failed to declare an unqualified preference for the separate system as administered in the Eastern Penitentiary.

We shall not swell this document by transcribing their opinions at length, and yet we wish such men as the author of the Review before us, could be persuaded to examine these opinions, and the grounds of them, as they are spread out in some of the masterly reports that have been made to the governments

of Great Britain, Prussia, Germany, France and Canada.* Sure we are, that he would not venture, in the face of the facts and principles which these documents disclose, to maintain the positions he has taken in this article. He would not lend himself to sustain the Prison Discipline Society in their efforts to discredit and destroy a system which so many wise and benevolent men of our own and other countries have thoroughly examined, and to which they give a decided and unqualified preference.

Thirty or forty years ago much that was said and done in regard to prison discipline was matter of theory and speculation. What were then unsettled opinions have now become axioms, and our great effort at present should be to diffuse correct information, and, as far as possible, counteract the influence of prejudice and misreport.

But one would suppose from the spirit of this Review, that the Eastern Penitentiary was just lifting itself up to claim some share of regard from those who are looking about for the best kind of prisons, while at Auburn they may find the grand "model for Europe and America." Those who have pinned their faith upon the representations of the Prison Discipline Society will hardly believe that there is not a prison upon the face of the whole earth the principles and results of which have been so triumphantly vindicated as those of the Eastern Penitentiary.

Besides a regular succession of legislative reports made for a series of years upon personal visitation and inspection, and opposite political influences, every one of which clearly and fully establishes the superiority of this system over every other,

* We would especially commend to his attention the "Third Report of the Inspectors appointed under the provisions of the Act 5 & 6, Will. IV. c. 38, to visit the different prisons of Great Britain. 1. Home District, 1838." It presents the whole subject in controversy, with the evidence and arguments on both sides, with a clearness and candour that command our confidence, and shows conclusively which system is most likely to accomplish the legitimate ends of prison discipline.

and that too in the face of a heavy balance against the treasury of the Commonwealth, we have (as before intimated) positive testimony to the same effect from some of the most discriminating and intelligent travellers from other parts of the world who have made the prison discipline of various countries, and the various systems in vogue among us, the subject of special investigation.

But the most important and conclusive documentary evidence is found in the reports of commissioners from foreign governments. In 1834 the British government sent a commissioner to this country, who visited and inspected, in his own proper person, every penitentiary in the United States, except those of Georgia and Illinois. His report (230 pp. folio) was published by order of Parliament, and from it we take but one paragraph, which we select rather than others of the same import which abound in the volume, because it places the two systems, as the Reviewer presents them, *in contrast*.

“In judging of the comparative merits of the two systems, it will be seen that the discipline of Auburn is of a physical, that at Philadelphia of a moral character; the whip inflicts immediate pain, but solitude inspires permanent terror. The former degrades while it humiliates—the latter subdues but it does not debase. At Auburn the convict is uniformly treated with harshness—at Philadelphia with civility; the one contributes to harden, the other to soften the affections. Auburn stimulates vindictive feelings—Philadelphia induces habitual submission. The Auburn prisoner, when liberated, conscious that he is known to past associates, and that the public eye has gazed upon him, sees an accuser in every man he meets. The Philadelphia convict quits his cell secure from recognition and exempt from reproach.”*

Now suppose the question we have been considering were submitted to a jury, and two individuals (viz. the Author of the Review and the British Commissioner) were offered as

* Crawford's Report, p. 19.

witnesses. It would be an inquiry, materially affecting the weight of their testimony, which of them has examined the two systems most carefully in detail? Which of them has seen the greatest number of convicts under the different modes of discipline adopted in the penitentiaries of the United States? and which of them from his circumstances and associations is most likely to be free from prejudice? And when, in reply to these interrogatories, it should be disclosed that Mr. Crawford has for upwards of twenty years devoted himself without weariness or diversion to the examination of this one subject of prison discipline, and that his purpose in visiting this country was solely to obtain such information respecting the principles and results of our penal institutions as might enable the British government the better to judge of their own policy—no jury could fail to give to testimony, from such a source, the most careful and respectful consideration.

The same Mr. Crawford in conjunction with Whitworth Russell, Esq., in a report to the British government in 1837, says, "It is a curious fact that some of the strongest testimonies in favour of individual separation, may be collected from those who are best acquainted with the operation of the silent system. We may assert with confidence that there is not one of the best conducted prisons in which the silent system is effectually introduced, that we have not repeatedly visited and closely inspected, and we can truly state that the governors of these prisons, with one exception only, have acknowledged that had they to decide upon the merits of the respective plans, *they would unquestionably give their unqualified preference to the separate system.* Whatever are the obstacles against which the system will have to contend, we are satisfied they must eventually yield to the force of discussion and the power of truth. We earnestly hope, as well for the honour as for the interests of the country, that the day which shall witness its general adoption will not be remote."

And again, in 1838, the same gentlemen, in conjunction with a distinguished officer of the Royal Engineers, acting as

government inspectors of prisons, made a report (315 pp. folio) a summary of which we give in their own words:

"We have shown that the plan of separate confinement fulfils all the conditions of a complete and efficacious prison system. We have shown that what is called the silent system, notwithstanding its admitted superiority over that of association, has no such pretensions to adoption as its advocates claim for it. In support of our views respecting the superiority of the separate system, we have given an historical account of its origin and progress both in Great Britain and the United States, as well as in those kingdoms on the continent of Europe in which its merits have been recognised and its operation introduced; we have also stated the names of those distinguished men whose opinions have been publicly given in support of the system of separation, among whom are to be found some of the most wise and benevolent of mankind. This account is followed by a statement of the various objections which we have met with against the separate system, with such answers as, we trust, will be found conclusive. We have further noticed the objections to which the silent system is liable, among which we believe *there is not one that any modification or improvement of the system can wholly remove.*" Page 99.

Captain J. W. PRINGLE, a Commissioner from the British government for inquiring into the state of prisons in the West Indies, visited the United States and examined our principal penitentiaries. He says, "I give the preference to the separate system as that which is most likely to effect the reformation of the prisoner."

In 1831, before Mr. Crawford's first visit to the United States, and when the Eastern Penitentiary had been opened but two years, the French government despatched two distinguished citizens (MM. DE BEAUMONT and DE TOCQUEVILLE) to examine our penitentiaries; and they reported that in their opinion the "Philadelphia system must effect more reformation than that of Auburn;" and that the Auburn system "is cruel and degrading, and that the discipline practised under it

must be regarded as an insurmountable objection to the scheme which permits it."

At a subsequent period the French government commissioned M. BLOUET to make a farther investigation of the subject, and ascertain what were the results of farther experience under the two systems, and his attention was particularly directed to their comparative efficacy and advantages. He was accompanied in this mission by M. DE METZ, (one of the Judges of the Royal Court at Paris,) M. GUSTAVE DAVAUX, and M. JEAN VAREL. Following in the footsteps of their eminent countrymen, M. De Tocqueville and M. De Beaumont, M. Blouet and his friends narrowly inspected every department of the American penitentiaries.

M. DE METZ in a letter addressed by him to one of the departments of the government says, "I quitted France strongly prepossessed against the Pennsylvania system; but since I have seen the system in operation, my opinion has undergone a total change, and it is that very system which my conscience now compels me to put forward and contend for."

In his "Report on the Penitentiaries of the United States," he goes into a full and minute account of the principles and fruits of the two modes of discipline, showing a thorough acquaintance with the subject in all its bearings, and concludes thus: "Such are the principal motives by which we have been led to advocate the system of Pennsylvania, which has now the sanction of time and experience; it has brought over to its side many who had previously opposed it; and all who for the last seven years have visited the American penitentiaries have given the preference to that of Philadelphia.*** It was among the very persons who were engaged in carrying into effect the silent system, that we have found the warmest supporters of that of separate confinement."

M. BLOUET and the other gentlemen of the mission declare that their "convictions on the subject are the same with M. De Metz, and are carefully set forth in his report."

And what was the effect of these representations on the French government? In October, 1837, the opinion of the

council general of the department of the Seine was required on the question:

“Whether prison labour should be performed in common, or is it preferable that the prisoner should be subjected to constant solitary confinement, the labour being performed in his cell.”

The council (forty members being present) decided as follows:

“Considering that the working in common of the convicts, even were the most profound silence enforced, would always be productive of the serious inconvenience of making them acquainted with each other, and of their renewing that acquaintance upon the expiration of their sentence;

“That this fatal connexion among the convicts is a perpetual cause of recommitments, and for society a subject of alarm and annoyance;

“That silence, inefficacious to ward off such an inconvenience, would be but imperfectly obtained even by the aid of reiterated punishments, more calculated to revolt the feelings and to keep up the spirit of insubordination than to produce a complete suppression of the fault;

“Considering that constant solitary confinement in the cell prevents more of these difficulties;

“That the return to sentiments of morality and religion is only possible in solitude, when the voice of conscience runs no risk of being stifled by the gesture or the look of an abandoned character;

“That at the expiration of his punishment the convict, far from being repelled by society, will excite an interest in it, because withdrawn from the influence of the other convicts, he will find in his solitude the chances of improvement only;

“That if idleness and sloth have been, as they always are, the original cause of his captivity, labour will become for him in this captivity a want and a consolation;

“That the trade to which he is apprenticed being able to be worked at, without the assistance of others, will furnish him with the means of subsistence, independently of great workshops, in which he might be liable to a relapse;

"Considering, lastly, as far as regards the health of the prisoners, that the regulation of separation appears to have been sufficiently proved, and that it presents up to the present time more favourable results than those of the old prisons;

"Declares its opinion to be in favour of *constant solitary confinement with labour in cells.*"

In conformity to this opinion, thus deliberately formed and explicitly declared, the council appropriated the sum of three millions of francs (or upwards of half a million of dollars) to the erection of a prison on the separate principle in Paris, and have resolved forthwith to erect another on the same principle at Versailles, to serve as a model jail.

We may add in this connexion the opinion of the Inspector of French prisons, (M. MOREAU CHRISTOPHE,) who, in a late valuable work on the subject, says of the Pennsylvania system, that "it is the only one which fulfils *all* the conditions of a complete penal discipline, and which therefore, in my opinion, ought to be substituted for every other." And another distinguished French writer on the subject (LE VICOMTE BRETIGNERES) says, "Both the moral and material reform of our prisons is a social necessity, and cannot be effected but by a revision of the criminal law and *an entire adoption of the system in force in the Eastern Penitentiary at Philadelphia.*"

In 1834 DR. JULIUS, whose knowledge of the subject of prison discipline is accurate and extensive, and who as a philosopher and a man of science is worthy of all respect, was commissioned by the Prussian government to visit and report on the penitentiaries of the United States. After months of patient and critical observation DR. JULIUS thus expresses himself:

"I declare candidly that upon an examination of my own conscience, and the knowledge I have acquired of the different systems of prisons in Europe and America, none has appeared to me to present so much equity and justice in the infliction of punishment, or affords so many chances of reformation as that of solitary confinement, combined with the regular visits of the

officers of the prison, such as the inspectors, chaplain, governor and medical men. I say *chances* of reformation, because human efforts are necessarily limited, and can only go so far as to ward off as much as possible every impediment likely to prevent the influence of divine grace, which is the only source of good, and can alone accomplish the real reformation of the guilty."

In the same year MM. MONDELET and NEILSON were appointed, on a like mission, by the government of Lower Canada to visit and report upon the construction and discipline of the penitentiaries in the United States. In their report they present the peculiarities of the two prevailing systems, and the considerations which "incline them to prefer the Philadelphia system, *notwithstanding it offers less immediate profit, and may even for a time entail considerable expense.*"

M. DUPÉDIDUX, Inspector General of the prisons of Belgium, speaks of the separate system as "founded less upon the importance of pecuniary advantages than upon that of moral results." A volume of testimony is furnished by a single fact from Belgium, viz. that the government has directed the introduction of the separate system into the celebrated MAISON DE FORCE at Ghent, where the Auburn system has been practised, probably, for more than half a century.

It is unnecessary to extend the citation of opinions which have been expressed officially and without qualification in favour of the separate system pursued in Pennsylvania, as distinguished from the silent system prevalent in New York. Among them are found those of men "distinguished by the correctness of their judgment, their patience of investigation and their accuracy of reasoning; men of extensive practical acquaintance with the subject of prison discipline generally, who have devoted their lives to the study of it; and whose opinions have acquired, both in this country and abroad, a degree of authority to which every day's experience adds weight; men who have been eye witnesses of the beneficial effects of the (separate) system, who have examined it not only with all the attention and vigilance which might be expected from those who were

acting in the capacity of public functionaries, commissioned by their respective governments to investigate the nature, object and working of the system, but who in some cases came strongly prepossessed against the very system of which they are now the most earnest public advocates. These high and unquestionable authorities, more especially the commissioners from the governments of England, France, Prussia and Canada—though differing in country, language, habits and feelings—after a personal and minute investigation of its principles, details and results, have united in declaring themselves decidedly in favour of the system of separate confinement. In the case of France we have the result of two distinct missions to this country, and the issue of the inquiries in these and all the other cases has been the same—*that the separate system is uncontestedly superior to its rival, and that this superiority is admitted even by those who are actually engaged in administering the silent system.*” Crawf. Rep. 1837–8, p. 81.

In the face of such authority, based as it is upon indisputable facts, what intelligent man would attach importance to speculative opinions, formed perhaps in the retirement of the closet, and supported by such mutilated, carved, isolated, extorted, *ex parte* testimony, as the Reviewer has introduced to sustain his positions? Where is the man in the wide world whose knowledge, observation and experience clothe his opinions on this subject with authority, and who at the same time stands perfectly unconnected with and uncommitted to the rival systems in this country—as the British, French and Prussian commissioners certainly were—where is the man, thus qualified to judge, who has expressed a doubt—aye—A SINGLE DOUBT that the separate or Pennsylvania principle is, on the whole, decidedly superior to the silent or Auburn principle as the basis of penitentiary discipline? NOT ONE.

We lay aside the Review with sorrow that it has lent itself to an evil work. When will self-interest, prejudice and passion cease to pervert truth and justice? When will the pleadings of reason and humanity and the verdict of experience be heard above the din and tumult of contradiction and controversy?





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